

Message Text

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ACTION PM-03

INFO OCT-01 SS-14 ISO-00 ACDA-05 NSC-05 NSCE-00 INR-05

CIAE-00 OMB-01 OES-02 L-01 SP-02 SAM-01 SAJ-01 EUR-08

NEA-07 EB-03 /059 W

----- 049090

R 171548Z MAR 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 7310

INFO AMEMBASSY LONDON

AMEMBASSY NEW DELHI

AMEMBASSY OTTAWA

AMEMBASSY PARIS

USMISSION IAEA VIENNA

USMISSION USBERLIN

AMCONSUL BOMBAY

C O N F I D E N T I A L SECTION 01 OF 02 BONN 04443

LIMDIS

E.O. 11652: GDS

TAGS: TECH,HPARM, ENRG, GW, IN

SUBJECT: BORSIG CASE

REF: A. BONN 04020; B. STATE 057953; C. OTTAWA 0997

1. SUMMARY: AT INVITATION OF UK, EMBOFFS FROM FRENCH
AND US EMBASSIES MET TO DISCUSS TACTICS AND TO REVIEW
UK DRAFT ORAL STATEMENT TO BE USED DURING APPROACH TO
FRG IN BONN. TEXT AGREED AD REFERENDUM TO BE USED
DURING SEPARATE DEMARCHES BY BRITISH AND FRENCH.
ACTION REQUEST: DEPARTMENT'S APPROVAL OF AD REFERENDUM
TEXT BELOW AND INSTRUCTIONS.

END SUMMARY.

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2. UK SCIENCE COUNSELOR INVITED EMBASSY S&T COUNSELOR

AND FRENCH NUCLEAR ATTACHE (FRENCH HAVE THREE SCIENCE OFFICERS IN BONN) TO MEET WITH HIM TO REVIEW DRAFT UK ORAL STATEMENT. DURING DISCUSSION TEXT REDRAFTED TO SOFTEN RELATIONSHIP BETWEEN DEMARCHES TO BE MADE SEPARATELY BY THREE ALLIES AND THEIR MEMBERSHIP ON ALLIED KOMMANDATURA WHICH IS NOW CONSIDERING BORSIG EXPORT LICENSE APPLICATION.

3. DEPARTMENT SHOULD NOTE PARA (I) III OF DRAFT STATEMENT. (SEE PARA 5, REF A, AND PARA 12, BONN 04019). EMBOFF RESERVED US POSITION ON THIS UK ARGUMENT IN SUPPORT OF ALLIED BELIEF THAT BORSIG COMPRESSORS MUST TRIGGER SAFEGUARDS AND REQUIRE ASSURANCES FROM INDIA. WE RECOGNIZE THAT--IF PARAGRAPH 3, PART B, OF THE ANNEX TO THE GUIDELINES IS APPLICABLE TO THE TRANSFER OF BORSIG COMPRESSORS--INDIA MUST THEN ALSO ACCEPT SAFEGUARDS OBLIGATIONS ON THE RETRANSFER OF RELEVANT TECHNOLOGIES AND ON THE CONSTRUCTION OF DERIVATIVE FACILITIES. ALTHOUGH THIS ADDITIONAL CONTROL MAY BE CONSIDERED DESIRABLE, WE DOUBT THAT SALE AND TRANSFER OF THE BORSIG COMPRESSORS WILL REALLY INVOLVE "KNOWHOW FOR THE CONSTRUCTION AND OPERATION OF THAT FACILITY," I.E. PRESUMABLY THE ENTIRE HEAVY WATER PLANT. WE WOULD APPRECIATE DEPARTMENT'S COMMENTS. UK SCIENCE COUNSELOR IS WILLING TO DELETE PARA 1(III), UNLESS USG ALSO FAVORS THIS UK ARGUMENT.

4. DRAFT ORAL STATEMENT FOLLOWS:

BEGIN DRAFT ORAL STATEMENT (VERSION FOR USE BY UK)
QUOTE:

1. THE FIRM OF BORSIG IN BERLIN HAS MADE AN APPLICATION TO THE ALLIED KOMMANDATURA FOR A LICENSE TO EXPORT TO INDIA FIVE COMPRESSORS FOR USE IN A PLANT FOR THE PRODUCTION OF HEAVY WATER. THE GOVERNMENT OF (UK), TOGETHER WITH THE GOVERNMENTS OF (US) AND (FRANCE), HAVE CONSIDERED THIS APPLICATION AND HAVE CONFIDENTIAL

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CONCLUDED THAT THE GUIDELINES OF THE NUCLEAR SUPPLIERS GROUP, TO WHICH THE GOVERNMENTS OF THE FRG AND THE (UK) ARE COMMITTED, APPLY IN THIS CASE FOR THE FOLLOWING REASONS:-

(I) IN THEIR VIEW THE TECHNICAL SPECIFICATIONS OF THESE COMPRESSORS MAKE IT CLEAR THAT THEY FALL INTO THE CATEGORY OF EQUIPMENT ESPECIALLY DESIGNED

OR PREPARED FOR A PLANT FOR THE PRODUCTION OF
HEAVY WATER AND ARE THEREFORE CAUGHT BY THE
TRIGGER LIST UNDER HEADING 2.6.1.

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(II) THERE IS NO DOUBT THAT THESE PARTICULAR
COMPRESSORS ARE DESTINED FOR USE IN A HEAVY WATER
PLANT, BECAUSE THIS IS STATED IN THE EXPORT
LICENSE APPLICATION.

(III) THE COMPRESSORS WOULD FORM AN ESSENTIAL AND
SIGNIFICANT PART OF THE HEAVY WATER PLANT AND
TECHNICAL KNOW-HOW MUST BE PASSED ON BY THE SUP-
PLIER FOR THEIR CORRECT OPERATION WITHIN THE
OTHER OPERATING UNITS. UNDER PARAGRAPH 6 OF THE
GUIDELINES, HEAVY WATER PRODUCTION IS TREATED AS

A SPECIALLY SENSITIVE TECHNOLOGY. IT WAS AGREED BETWEEN THE SUPPLIERS THAT IF ONE OF THEM SHOULD TRANSFER IN THE AGGREGATE A SIGNIFICANT FRACTION OF THE ITEMS ESSENTIAL TO THE OPERATION OF SUCH A FACILITY TOGETHER WITH THE KNOW-HOW FOR THE CON-
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STRUCTION AND OPERATION OF THAT FACILITY THAT TRANSFER SHOULD BE DEEMED TO BE A TRANSFER OF FACILITIES OR MAJOR CRITICAL COMPONENTS THEREOF AS DEFINED IN PARAGRAPH 6 OF THE GUIDELINES (PART B PARAGRAPH 3 OF THE ANNEX TO THE GUIDELINES).

2. THE (UK) GOVERNMENT CONSIDER THEREFORE THAT THE EXPORT OF THESE COMPRESSORS TO INDIA CAN ONLY BE AUTHORIZED IF THE INDIAN GOVERNMENT PROVIDES FORMAL ASSURANCES EXPLICITLY EXCLUDING USES WHICH WOULD RESULT IN ANY NUCLEAR EXPLOSIVE DEVICE AND AGREES TO THE APPLICATION OF IAEA SAFEGUARDS TO ANY SOURCE OR SPECIAL FISSIONABLE MATERIAL PASSING THROUGH ANY NUCLEAR INSTALLATION WHICH USES HEAVY WATER MANUFACTURED IN THE PLANT IN WHICH THE COMPRESSORS IN QUESTION WERE INSTALLED.

3. THE (UK) GOVERNMENT CONSIDER THAT ANY SUCH SAFEGUARDS WOULD NEED TO BE NEGOTIATED BY THE FEDERAL GOVERNMENT BECAUSE THE RIGHTS AND OBLIGATIONS OF THE FRG UNDER THE STATUTE OF THE IAEA APPLY ALSO IN THE WESTERN SECTORS OF BERLIN, SUBJECT TO ALLIED RIGHTS AND RESPONSIBILITIES, BY VIRTUE OF THE EXTENSION OF THE STATUTE TO BERLIN. THE (UK) GOVERNMENT THEREFORE INVITE THE FEDERAL GOVERNMENT TO ASK THE GOVERNMENT OF INDIA WHETHER THEY WOULD BE WILLING TO PROVIDE THE NECESSARY ASSURANCES AND TO AGREE TO ACCEPT THE NECESSARY SAFEGUARDS.

END OF DRAFT ORAL STATEMENT (VERSION FOR USE BY UK).

5. COMMENT: A REPORT AND COMMENT ON DISCUSSION BY ALLIED BONN GROUP REPS OF OTHER ASPECTS OF THE QUESTION OF APPLICABILITY OF GUIDELINES TO BERLIN FOLLOWS BY SEPTTEL. MEANWHILE, EMBASSY BELIEVES THAT ABOVE TEXT (WITH POSSIBLE EXCEPTION OF PARA 1(III)) IS ACCEPTABLE FOR USE AS AN ORAL STATEMENT BY UK AND FRANCE WHEN MAKING DEMARCHES ON FRG. WE BELIEVE IT WOULD BE USEFUL FOR U.S. TO FOLLOW UP WITH SIMILAR DEMARCHE AND RECOMMEND THAT WE BE AUTHORIZED TO DO SO AS SOON AS UK AND FRANCE HAVE COMPLETED THEIR APPROACHES.

6. ACTION REQUESTED: REQUEST COMMENTS AND INSTRUCTIONS.
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Message Attributes

Automatic Decaptioning: Z
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Control Number: n/a
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Draft Date: 17 MAR 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
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Disposition Approved on Date:
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Margaret P. Grafeld
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